



FEBIS WORKS ON COMMENTS ON THE G29 GDPR IMPLEMENTATION GUIDELINES

After the G29 released its guidelines on GDPR implementation at the end of December (You can find all guidelines [here](#)), the FEBIS Regulatory Committee has worked on providing some comments to these guidelines, as encouraged by the G29 itself. The FEBIS comments paper outlines the need to get clarification on the use of information about individual entrepreneurs and natural persons having business mandates to see if this would be considered falling into the scope of personal data definition of the GDPR. The FEBIS comments also insist on the need to carefully balance the personal data protection right with the right to access information and re-use it. The paper also insists on the need to get clarification on the meaning accorded to “human intervention” requirement when talking about algorithms and profiling to get a more precise understanding of the applicability of these provisions to scoring processes.

The G29 guidelines on the DPO (Data Protection Officer) make a direct reference to scoring providers, in the chapter In the chapter 2.1.4 - “regular and systematic monitoring” - of the guidelines on DPOs (WP 243), some examples are provided. Among them, it can be read: “profiling and scoring for purposes of risk assessment (e.g. for purposes of credit scoring, ...). This is also an important point to take into account which shows that FEBIS member companies must prepare appointing a DPO per company (internal or external) because the nature of their business is considered as regular ads systematic monitoring.

EUROPEAN COMMISSION UNVEILS ITS DATA ECONOMY PACKAGE AS WELL AS THE E-PRIVACY REGULATION

The Commission just published its communication on Building a European data economy as part of its big Data Economy Strategy process. You can find the text and relevant staff working paper on the Commission web site at <https://ec.europa.eu/digital-single-market/en/towards-thriving-data-driven-economy>

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It will be an important issue for FEBIS to follow, the FEBIS Regulatory Committee will be working on this in the next months. As we will probably also set up a dedicated working group on that, if you are interested in the issue and want to become part of it, please contact us to be involved!

On the same day, the European Commission also published [*its draft e-privacy regulation*](#), which is to replace the current e-privacy directive. It aims at protecting privacy and personal data of both natural and legal persons in the field of internet and electronic communications and contains several measures such as :

- An extension of the scope **to all providers** (telco + OTTs) and align the territorial scope along the same lines than the GDPR, ie make it also applicable for non-EU providers that are targeting EU users.
- The consideration that by default electronic communications shall be **confidential** (art 5).
- A very large definition of metadata (including analytics) of which the lawful processing is authorised **only with user consent** and with very limited other legitimate grounds including billing or interconnection payments.
- The alignment of then **consent** provisions with the ones of the GDPR and in case of non-respect of the provisions set out in this regulation, fines are also aligned with the ones of the GDPR (up to 20 M euros or 2% of the worldwide turnover)

The matter will be analysed by the FEBIS Regulatory Committee to assess the potential impact on the credit reference sector and to decide on the way forward.

EUROPEAN PARLIAMENT VOTES ON REPORTS ON ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

On 12th January 2017, the JURI Committee adopted the opinion report of MEP **Kostas Chrysogonos** on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

This opinion report from the JURI Committee will complement the main report from ECON&LIBE Committees MEP Karins and MEP Sargentini.

In the JURI opinion report of MEP adopted on 12.01.2017, some positive amendments which call on the information on beneficial owners to be made available publicly have been adopted; this would be a positive step to allow credit reference service providers (and not only banks and financial intelligence units) to be able to have access to beneficial ownership information. In particular **amendment 65 on article Article 1 – paragraph 1 – point 9 – point a a (new) has been adopted, which states: “5a. The information held in the register referred to in paragraph 3 of this Article on any corporate and legal entities other than those referred to in Article 1a(a) of Directive (EC) 2009/101 shall be publicly accessible. The information publicly accessible shall consist of at least the name, the date of birth, the nationality, the country of residence, contact details (without disclosure of a home address), the nature and extent of the beneficial interest held of the beneficial owner as defined in Article 3(6)(b). For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and open data standards, and subject to online registration. Member States may introduce a fee to cover the administrative costs;**

On 12th January, the LIBE and ECON Committees also held a joint meeting to tackle the issue and discuss the co-rapporteurs Karins and Sargentini report which triggered more than 400 amendments in total. MEP Karins stressed the importance of the register of beneficial owners and the register of trusts and the majority of MEPs is in favour of giving a public access to such registers. MEP Karins and Sargentini are working on compromise amendments on article 30 and article 31 ; MEP Karins said we should not deliberately be hampering legal activities. Both co-rapporteurs are working on the amendments and aim at coming with some compromise by February so trialogues can start with the Member States.

MEP Sargentini (rapporteur for LIBE committee) stressed it is good to see that both EP and Council want to push for a central register of beneficial owners but also of trusts. The next meeting with shadow rapporteurs will also tackle the issue of online payments misuse by terrorists. Co-rapporteurs will have to find compromises that are workable and the most contentious issue will be the definition of transparency (different approached between EP and Council).

The shadow rapporteur from S&D wants to push down the limit of 10% of shares to define economic interest and the use of the register should be open with only a small fee. ECR shadow rapporteur is a bit more reserved on the public accessibility of the beneficial owners' registers, it should be made available to people who can demonstrate a legitimate interest.

ESAS CONSULTATION ON BIG DATA RISKS

The Joint Committee of the European Supervisory Authorities (ESAs) launched a public consultation about the potential benefits and risks of Big Data for consumers and financial firms to determine whether any further regulatory or supervisory actions may be needed. Big Data is a phenomenon linked to the ever-increasing availability of data and advances in Information Technology tools, applications, platforms and systems to collect, process and analyse it. Big Data can generate ideas, solutions or predict certain events or behaviours and is already used in the financial industry.

The ESAs' Discussion Paper notes that Big Data can bring a number of benefits to both financial firms and consumers. Better analytics mean firms can profile customers in order to personalise products and services, enhance their own internal processes and improve their fraud detection capabilities. For example, banks use financial and payment data to assess consumer credit worthiness; in the insurance sector, firms are finding increasingly innovative ways of gathering data, such as installing telematics devices in cars to monitor consumers' driving behaviour, to offer more personalised premiums and products; and in the securities markets, high frequency traders and asset managers analyse large volumes of data to inform their investment decisions.

At the same time, the ESAs also consider potential risks associated with Big Data, such as access issues for consumers being classified as undesirable due to firms' abilities to undertake more granular analyses. For example, consumers seeking household insurance for properties located in areas exposed to high risks such as floods, earthquakes or crime may have to pay very high premiums or might not be offered an insurance coverage.

The link to the consultation (open until 17th march 2017) can be seen here: <https://www.esma.europa.eu/press-news/consultations/joint-committee-discussion-paper-use-big-data-financial-institutions>

PUBLIC CONSULTATION ON THE CAPITAL MARKET UNION MID-TERM REVIEW

On 20th January 2017, the European Commission unveils a **public consultation on the mid-term review of the Capital Markets Union**. The [Action Plan](#) published in September 2015 sets out the priority actions needed to put in place the building blocks of a CMU by 2019, removing barriers to cross-border investment and lowering the costs of funding. As part of the third pillar of the [Investment Plan for Europe](#), the CMU should help businesses tap into more diverse sources of capital from anywhere within the EU, make markets work more efficiently and offer investors and savers additional opportunities to put their money to work in order to boost growth and create jobs. The [Communication published in September 2016](#) reaffirms the Commission's commitment to the CMU and calls for an acceleration of the reform, setting out the necessary steps for its fast completion.

The aim of this [consultation document](#) is to seek feedback on how the current programme can be updated and completed in order to provide a strong policy framework for the development of capital markets, building on the initiatives that the Commission has presented so far.

The Commission outlined the following upcoming priorities for building a CMU:

- **Personal pensions:** Based on the outcome of a public consultation carried out in 2016, the Commission will work on a proposal for a simple, efficient and competitive EU personal pension product aimed at reducing barriers to the provision of pension services across borders and increasing competition between pension providers.
- **Promote the FinTech sector and ensure that the regulatory environment strikes an appropriate balance** between enabling the development of FinTech and ensuring confidence for investors. Technology is driving rapid change throughout the financial sector and has the power to transform capital markets, and bring them closer to companies and investors. The **Commission set up an internal task force** that brings together services responsible for financial regulation, for the Digital Single Market, competition and consumer protection policy. It will further engage outside experts and stakeholders with the aim to formulate policy-oriented recommendations and propose measures in the course of 2017.

- **Sustainable finance:** Sustainable investment is at the heart of building a CMU. The key question arising is how the financial policy framework can contribute to an orderly transition to a low-carbon economy by helping mobilise finance, notably private or capital market finance while, at the same time, avoid financial instability of banks and companies that might be exposed to carbon-intensive sectors and assets. In support of these objectives, **the Commission created a high level expert group**. The group will propose operational policy recommendations on the path towards an effective EU sustainable finance agenda by the end of 2017.

The Mid-term Review of the CMU Action Plan will:

- Take stock of the progress on the implementation of the CMU Action Plan;
- Update actions in the light of work undertaken so far and evolving market circumstances; and
- Complement the CMU Action Plan with new measures which constitute an effective and proportionate response to key challenges.

This consultation provides an opportunity for stakeholders to provide targeted input to complement and update the CMU Action Plan. Anyone can respond: the consultation will be as broad as possible. Views are welcome from consumers or users of financial services, consumer organisations, existing providers of retail financial services such as banks or insurance companies, would-be providers such as digital start-ups, or companies in the Financial Technology (FinTech) sector, to name just a few. Supervisors, national competent authorities, EU institutions and international organisations are also invited to take part.

You can respond to the consultation by filling in the questionnaire available [here](#). Respondents are invited to contribute to this consultation by 17 March 2017, and to provide evidence-based feedback and specific operational suggestions. The use of the [on-line questionnaire](#) is strongly recommended.

FEBIS REGULATORY COMMITTEE UPDATES: AN EXTENSIVE WORK PROGRAMME FOR 2017

The FEBIS Regulatory Committee had its first 2017 conference call on 11th January 2017 with a very heavy agenda of issues on the table. Among the priority issues that the Regulatory Committee will concentrate on for 2017 are :

- The GDPR implementation, links with the G29 and working on a possible FEBIS best practice approach on data protection
- The impact of the newly presented European Commission Data Economy Package as well as the impact of the e-privacy regulation and the whole Big Data subject
- The implementation of Anti-Money Laundering processes and in particular the situation in EU countries of the beneficial ownership information
- Involvement with the ICCR now that FEBIS is officially accepted as an ICCR member
- The follow-up of the Capital Market Union policies and of the green paper on financial services
- The question of insolvency and enabling a better second chance for honest bankrupt entrepreneurs

If you are a FEBIS member and want to be involved in the regulatory committee, that is great! Just get in contact with Luis, Bernie or Stephanie to get this going!

GERMANY BRINGS OPEN DATA INTO LAW - MINISTRY PRESENTS FIRST DRAFT OPEN DATA ACT

Just before the end of 2016 the German Federal Ministry of Interior presented the first Open Data act. This act, which amends the E-Government Act, intends to make the publication of Open Government Data an 'Open by default' requirement for the German government. By including Open Data into the legislation, a legal basis for Open Data is provided, making it clearer for both data users and providers what has to be released.

CONSULTATIONS

Consultation title	Subject	Deadline	Web site
Consultation on the data economy strategy	<p>The objective of the consultation is to collect information on:</p> <ul style="list-style-type: none"> • whether and how local or national data localisation restrictions inhibit the free flow of data in Europe • whether and to what extent digital non-personal machine-generated data are traded and exchanged • the nature and magnitude of any barriers to accessing such data • ways of tackling those barriers • emerging Internet of Things and robotics liability challenges • practices and issues relating to data portability, interoperability and standards. 	26/04/2017	<p>Link to text : https://ec.europa.eu/digital-single-market/en/news/public-consultation-building-european-data-economy</p>
Consultation on the Capital Market Union mid-term review	Analyse the remaining issues and policy lines to be developed with the CMU	17/03/2017	https://ec.europa.eu/info/finance-consultations-2017-cmu-mid-term-review_en
ESAs consultation on big data risks	Evaluate the impact of big data for consumers and financial terms	17/03/2017	https://www.esma.europa.eu/press-news/consultations/joint-committee-discussion-paper-use-big-data-financial-institutions

FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information, in particular, intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 60 full Members from all over the world involved in providing Business Information and Debt Collection services of National and International importance.

Supported by a combined workforce of more than 20,000 staff, FEBIS Members generate over 180 million Business Information and Consumer reports annually for over 500,000 organizations, providing these clients with invaluable business support. Aggregate sales turnover of **FEBIS Members is in excess of €2.5 Billion**.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.